

Administrative Review of Case 5930

Building permit and license to use the public right-of-way to maintain and partially relocate an existing solid board wood fence measuring forty eight (48) inches in height in the Magnolia Parkway public right-of-way

Ms. Heidi Wynn Maloni &
Mr. William Robert Maloni
5 Chevy Chase Circle

5 Chevy Chase Circle



Figure 1: View of 5 Chevy Chase Circle from Magnolia Parkway



Figure 2: Three sections of fence to the right (west) of the yellow sign will be eliminated and the section perpendicular to the house will shift back (east) to attach to the existing post

**Chevy Chase Village
Building Permit Application
for Fences & Walls**

Permit No: 5930

Property Address: 5 CHEVY CHASE CIRCLE
CHEVY CHASE, MD 20815

Resident Name: WM & HEIDI MALONI

Daytime telephone: 301-951-3375

Cell phone:

After-hours telephone:

E-mail: HEIDI.MALONI@GMAIL.COM

Primary Contact for Project:

☐ Resident

☒ Architect

☐ Project Manager

☐ Contractor*

*MHIC/MD Contractor's License No. (required):

Contractor Contact Information:

Name: BRIAN J. STEPHENSON, LANDSCAPE ARCHITECT

Business: 202-276-6522

Daytime telephone: SAME

After-hours telephone: SAME

Fax: 202-537-6021

E-mail: BRIAN-STEPHENSON@EARTHLINK.NET

Description of Fence or Wall Project:

REMOVE APPROXIMATELY 35' OF EXISTING 4' HEIGHT WOOD
FENCE RE-INSTALL APPROXIMATELY 10' NORTHWEST OF
CURRENT LOCATION. REPAIR AS NECESSARY.

Check appropriate box:

☒ Fence or wall to be constructed is: (1) new, (2) an enlargement of an existing fence or wall, or (3) replacing an existing fence or wall with one of a different kind.

☐ Fence or wall to be constructed is replacing an existing fence or wall with the same kind and in the same location.

Parking Compliance:

Is adequate on-site parking available for the construction crews?

☒ Yes

☐ No

If no, please attach a parking plan which minimizes inconvenience to neighboring residents, and indicate if the property is in a permit parking area.

Will road closings be required due to deliveries, equipment or other reasons?

☐ Yes

☒ No

To be completed by Village staff:

Is this property within the historic district?

☒ Yes

No

Staff Initials: 98

Date application filed with Village: 5/18/11

Date permit issued: _____

Expiration date: _____

Guidelines for Building, Replacing and Maintaining Fences and Walls

Sec. 8-22 of the Village Code regulates fences and walls. To repair or maintain an existing fence or wall, the Village does not require a building permit. To install or replace a fence or wall, however, residents will need a Village building permit. (A building permit may also be required from Montgomery County, including the Historic Preservation Commission if the property is within the Historic District). Village Code allows fences and walls to be installed on a resident's property lines, inside the property lines on private property, and sometimes in the public right-of-way.

When placed on the property lines or on private property, the Village Code regulates fence and wall heights in two ways:

1. Fences and walls installed on private property anywhere between the property line and the front building restriction line may not exceed four feet (4') in height.
2. Fences and walls installed to the rear of the front building restriction line (that is, along the side and rear property lines or in the side and rear yards) may not exceed six and one half feet (6½') in height.

When measuring the height of a fence or wall, the Village Code provides that the "measurement shall be made from the surface of the ground of the lower yard next to the fence or wall" **to the highest point of the fence or wall** (such as the top of the posts, caps, decorative lattice, finials, etc.). For example, if a fence post is 6½ feet high, then a cap on that post would exceed the height limit.

Walls can sometimes change the flow of water on a property. In such cases, residents or contractors will need to include a drainage plan with the building application.

When installing a fence or wall in the Village's public right-of-way, in addition to obtaining a Village Building Permit, residents must sign a **License to Use the Public Right-of-Way**, which will be recorded with your deed (please contact the Village office for more information). Fences and walls installed in the Village's rights-of-way may not exceed four feet (4') in height. Fences in the Village's rights-of-way must be installed at least two feet (2') from the public sidewalk, or where there is no sidewalk, at least five feet (5') from the curb or nearest edge of the paved roadway. Walls in the Village's public rights-of-way must be installed at least three feet (3') from the public sidewalk, or where there is no sidewalk, six feet (6') from the curb or nearest edge of the paved roadway. The Village office will not issue permits for any fences or walls that block necessary sight lines at intersections or otherwise create a dangerous condition.

For all Village Code requirements, please see to Sections 8-4, 8-22, and 8-31.

**Building Permit Application for Fences and/or Walls:
Filing Requirements**

*Application will not be reviewed until the application is complete
Village permits will not be issued until all county permits have been issued*

- ☒ Copy of stamped drawings approved by Montgomery Co. Dept. of Permitting Services (DPS) and the Historic Preservation Commission (HPC), if required. Every page of drawings must be clearly stamped.
- ☒ This application form, signed by resident.
- ☒ Boundary Survey or Plat
- ☒ Site Plan (see: Village Site Plan Checklist to ensure completeness)
- ☒ Building plans and specifications
- ☐ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ☒ Filing Fee (due at time of application). Fee schedule is listed in Chapter 6 of the Village Code.
- ☐ Damage deposit or performance bond (due when permit is issued). Amount will be set by Village Manager.

Once this permit application is complete, the Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.

If the Montgomery County permit is suspended, revoked or lapsed, the Village permit is automatically suspended, revoked or lapsed.

No signs advertising any service provider may be posted on the work site.

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest code, and any covenants and easements on the subject property.

Applicant's Signature: Brian Stipler **Date:** 5/16/2011
for WM - MARONI

For Use By Village Manager	Application approved with the following conditions:
For Use By Village Manager	Application denied for the following reasons:

Filing Fees (due when application submitted)	Checks Payable to:	Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
Permit Application Fee: <input checked="" type="checkbox"/> \$30.00 (if fence or wall is new, enlarged or replaced with different kind) <input type="checkbox"/> \$15.00 (if fence or wall is being replaced in-kind and in the same location) <input type="checkbox"/> \$50.00 (additional fee if construction is in the Right-Of-Way) <i>chuck</i>		
Tree Preservation Plan Fee: <input type="checkbox"/> \$250.00 <i>already pd.</i> <input type="checkbox"/> Not required for this project		
TOTAL Fees: <i>\$30.00</i>	Date: Staff Signature:	
Damage Deposit/Performance Bond <input type="checkbox"/> \$ _____ <input type="checkbox"/> Waived by Village Manager	Date: Staff Signature:	
For Village Staff use: Field file for inspections by Code Enforcement Officer has been created: <input type="checkbox"/> Yes (Date: _____)		



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

BUILDING PERMIT

Jennifer Hughes
Acting Director

Issue Date: 5/18/2011

Permit No: 568697
Aptype : BUILDING
Expires: 5/18/2012
X Ref.
Rev. No:
Contact_ID: AC667808

THIS IS TO CERTIFY THAT: WILLIAM R & H W MALONI
5 CHEVY CHASE CIRCLE
CHEVY CHASE MD 208150000

HAS PERMISSION TO: ADD SINGLE FAMILY DWELLING
PERMIT CONDITIONS: patio and fence 4'

MODEL NAME:

PREMISE ADDRESS: 5 CHEVY CHASE CIR
CHEVY CHASE MD 20815-3414

LOT P1	BLOCK 25	ZONE	GRID
LIBER	ELECTION DISTRICT 07	PLATE	PARCEL
FOLIO	TAX ACCOUNT NO.:		PS NUMBER
PERMIT FEE: \$ 209.00	SUBDIVISION CHEVY CHASE SEC 2		

MUST BE POSTED ON JOB SITE

AN APPROVED FINAL INSPECTION IS REQUIRED PRIOR TO USE OR OCCUPANCY

Every new one- or two-family dwelling, *every* townhouse and any *attached accessory structure* must be equipped with a *fire sprinkler system*. A separate sprinkler permit is required for the installation of the fire sprinkler system.

Many subdivisions and neighborhoods within Montgomery County have private deed restrictions and covenants regulating building construction. Obtaining a building permit does not relieve the property owner of responsibility for complying with applicable covenants.

NOTICE

THIS APPROVAL DOES NOT INCLUDE
PLUMBING, GAS PIPING OR ELECTRICAL
OR CONSTRUCTION IN ANY
DEDICATED RIGHT-OF-WAY.

NOTE

THIS PERMIT DOES NOT INCLUDE
APPROVAL FOR ANY ELECTRICAL
WORK. YOU MUST HAVE A
SEPARATE ELECTRICAL PERMIT
TO DO ANY ELECTRICAL WORK.

Acting Director, Department of Permitting Services

PROPOSED GARAGE INSET
1"=10'

PART OF LOT 12

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON AN ACTUAL FIELD SURVEY, PERFORMED BY ACCEPTED METHODS, PURSUANT TO THE PLAT OF RECORD. PROPERTY CORNER MARKERS HAVE BEEN RECOVERED OR PLACED AND VERIFIED TO BE IN RELATIVE AGREEMENT WITH THE RECORD INFORMATION AS SHOWN. THE INFORMATION SHOWN HAS BEEN DERIVED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT SHOW ALL EASEMENTS OR ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

3/13/2009
DATE:

Joseph E. Snider
JOSEPH E. SNIDER
PROFESSIONAL LAND SURVEYOR
MD. REG. #21229

8. PREMISE ADJ
#5 CHEVY CHASE
CHEVY CHASE,



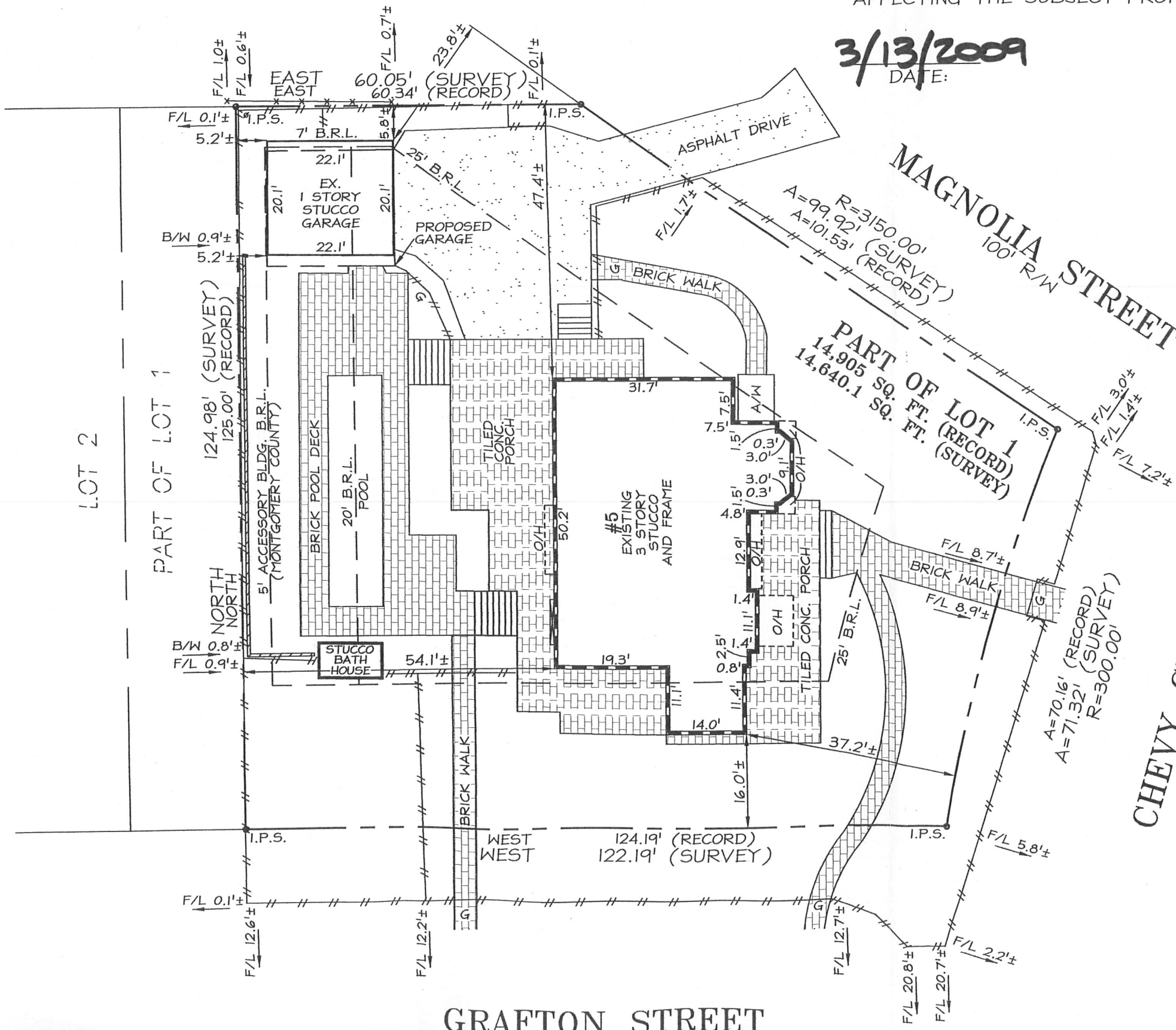
MAGNOLIA STREET
100' R/W

PART OF LOT 1
14,905 SQ. FT. (RECORD)
14,640.1 SQ. FT. (SURVEY)

CHEVY CHASE
CIRCLE



EXISTING



GRAFTON STREET

I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON AN ACTUAL FIELD SURVEY, PERFORMED BY ACCEPTED METHODS, PURSUANT TO THE PLAT OF RECORD. PROPERTY CORNER MARKERS HAVE BEEN RECOVERED OR PLACED AND VERIFIED TO BE IN RELATIVE AGREEMENT WITH THE RECORD INFORMATION AS SHOWN. THE INFORMATION SHOWN HAS BEEN DERIVED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT SHOW ALL EASEMENTS OR ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

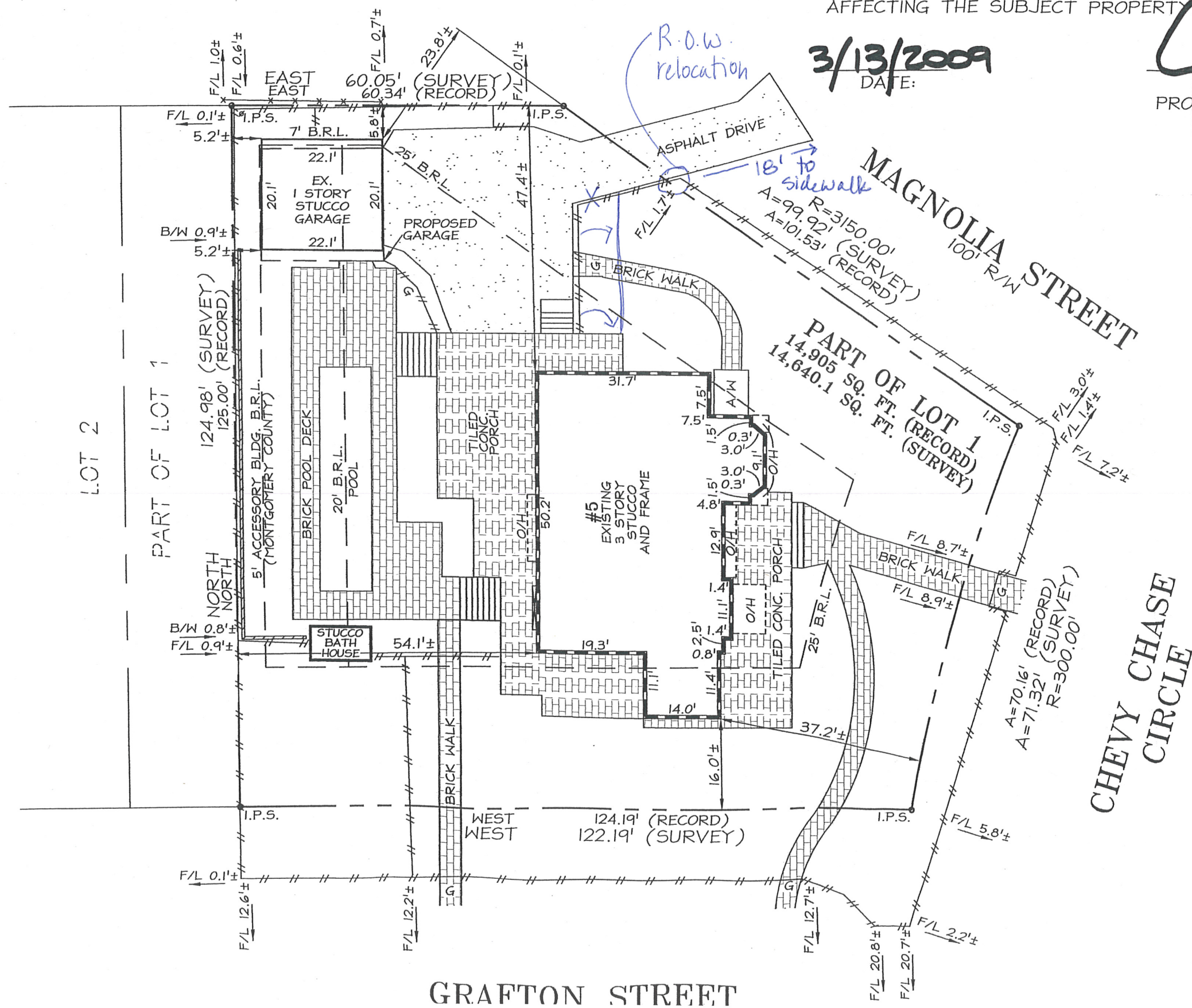
JOSEPH E. SNIDER
PROFESSIONAL LAND SURVEYOR
MD. REG. #21229

A circular professional seal for Joseph Eldon Snider, a Professional Land Surveyor in the State of Maryland. The seal features the state coat of arms in the center, surrounded by the text "STATE OF MARYLAND" at the top and "PROFESSIONAL LAND SURVEYOR" at the bottom. The name "JOSEPH ELTON SNIDER" is inscribed around the inner circle, and the number "No. 21229" is at the bottom.

BE'
M

P. B. B. P. 48

PROPOSED FENCE



LICENSE TO USE PUBLIC RIGHTS-OF-WAY

RECITALS

1. CHEVY CHASE VILLAGE, hereinafter referred to as the "Village," is a municipal corporation which holds, in trust for the public, the rights-of-way known as Magnolia Parkway, Chevy Chase Circle and Grafton Street.

2. Currently a portion of the aforesaid public rights-of-way are not improved with a paved roadway or sidewalk.

3. Heidi Wynn Maloni & William Robert Maloni, hereinafter referred to collectively as the "Owner," are the owners of Part of Lot 1, Block 25, in the subdivision known as "CHEVY CHASE SECTION No. 2," as per plat recorded in Plat Book B at Plat 48, among the Land Records of Montgomery County, Maryland, also known as 5 Chevy Chase Circle, hereinafter referred to as the "Property," which abuts the aforesaid public rights-of-way.

4. The Owner has requested permission to use the public rights-of-way for a private purpose, specifically to maintain and partially relocate an existing solid board wood fence measuring forty-eight (48) inches in height, as depicted in the plans approved for Permit Number 5930 on _____, 2011 and as shown on the plan attached hereto as Exhibit A.

5. Section 8-31 of the Chevy Chase Village Code permits the Village to grant a revocable license for the private use of the public rights-of-way.

6. Upon consideration of the plans submitted by the Owner, the Village has agreed to grant a revocable license to the Owner on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and obligations herein contained, One Dollar (\$1.00) in hand paid and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Village and the Owner hereby agree and covenant as follows.

1. The Village hereby grants a revocable license to the Owner for the purpose of maintaining and partially relocating an existing solid board wood fence measuring forty-eight (48) inches in height, as depicted in the plans approved for Permit Number 5930 on _____, 2011 and as shown on the plan attached hereto as Exhibit A. This license is limited to the unimproved portion of the public rights-of-way abutting the property.

2. The Owner hereby agrees to remove any plantings, structures, or improvements of any nature, at the Owner's sole expense, within ten (10) days of request therefor by the Village.

3. The Owner hereby agrees to maintain the unimproved public rights-of-way subject to this license as well as any plantings, structures or improvements placed there pursuant to this license at the Owner's sole expense.

4. The Owner hereby agrees, jointly and severally, to indemnify and hold the Village and its officers and employees harmless from any and all losses, claims, damages, demands, liabilities or other obligations to persons or property resulting or arising in any way from the Owner's use of the area subject to this license or from the Owner's failure to properly maintain the licensed area.

5. Any changes, modifications, additions or deletions to the plantings, structures or other improvements described herein shall require the further written consent of the Village.

6. The Owner shall not permit any plantings, structures or other improvements to be in violation of any applicable law, ordinance or regulation, nor shall the Owner permit any illegal conduct to occur in the licensed area.

7. The parties agree that this license can be revoked at any time in the sole discretion of the Village upon ten (10) days written notice.

8. If the Owner fails to maintain the licensed area or upon revocation of this license fails to restore the licensed area to its condition prior to the execution of this license, the Village reserves the right to enter the licensed area and perform such maintenance or other action as it deems

appropriate, the cost of which shall be charged to the Owner and may be assessed against the Property along with property taxes. The Owner agrees to pay such assessment within fifteen (15) days of demand therefor. If collection action is instituted to collect the aforesaid assessment, the Owner agrees to pay all costs of collection, including, but not limited to, reasonable attorneys' fees, expert witness fees, court costs, etc. The Owner agrees that attorneys' fees of twenty-five percent (25%) of the amount in controversy is reasonable.

9. Any plantings, structures or improvements left on the licensed area by the Owner upon the expiration of revocation of the license shall become the property of the Village. The foregoing shall not relieve the Owner of the obligation to remove any such plantings, structures or improvements at the time the license is terminated or revoked.

10. In the event exigent circumstances exist, the Village and/or its agents or contractors may perform work or take other actions in the area that is the subject of this License without prior notice to the Owner or the Owner's successor-in-interest. In such circumstances, neither the Owner nor the Owner's successor(s) in interest shall have any claim against the Village, its agents or contractors for damage to or interference with the improvements and/or plantings authorized by this License. Any restoration of the improvements and/or plantings after removal or damage by the Village, its agents or contractors shall be at the sole expense of the Owner.

11. The Owner understands that other governmental or quasi-governmental agencies, public utilities, franchisees and other similar entities may conduct activities, such as excavation, construction, demolition and installation of facilities in the public right-of-way. The Owner, on behalf of the Owner and the Owner's successors-in-interest, agrees that the Village shall not be responsible for any damage caused by the aforesaid entities to the plantings, structures and/or other improvements installed pursuant to this License.

12. The parties agree that the following shall be additional conditions of this license:
n/a.

13. The parties agree that all obligations of the Owner as set forth herein shall be binding on the Owner, jointly and severally, and upon the Owner's heirs, administrators, successors and assigns, and shall be covenants running with the Property.

14. The Owner agrees that this revocable license may be recorded among the Land Records for Montgomery County, Maryland by the Village at the sole expense of the Owner. The Owner, or the Owner's successors in interest, shall be responsible for all costs of preparing and recording any release of the Owner's obligations hereunder upon termination or revocation of this license.

15. The undersigned owner(s) hereby represent to the Village that they are all of the owners of the Property.

IN WITNESS WHEREOF, the parties hereto have executed this license under seal on this ____ day of ____, 2011.

OWNER:

CHEVY CHASE VILLAGE

Heidi Maloni

(SEAL)

By: _____
Shana R. Davis-Cook, Village Manager

William Maloni

(SEAL)

STATE OF MARYLAND :
to wit
COUNTY OF MONTGOMERY :

I HEREBY CERTIFY that on this ____ day of _____, 2011, before me, a Notary Public in and for the State and County aforesaid, personally appeared SHANA R. DAVIS-COOK, known to me (or satisfactorily proven) to be the Village Manager of Chevy Chase Village, a municipal corporation, and that such corporate officer, being authorized to do so, acknowledged and executed the foregoing instrument for the purposes therein contained by signing the name of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Notary Public

My commission expires:

STATE OF MARYLAND :
to wit
COUNTY OF MONTGOMERY :

On this ____ day of _____, 2011, before me, the undersigned officer, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

STATE OF MARYLAND :
COUNTY OF MONTGOMERY :
to wit

On this ____ day of _____, 2011, before me, the undersigned officer, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires:

After recordation, please mail to:

David Podolsky, Esq.
Stein Sperling
25 West Middle Lane
Rockville, MD 20850